

FINAL

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2011, Legislative Day No. 33

Bill No. 69-11

Introduced by Mr. Ladd, Chairman
(by request of the County Executive)

By the County Council, September 19, 2011

Introduced and first read on September 19, 2011
Public Hearing set for and held on October 17, 2011
Bill VOTED on November 7, 2011
Bill Expires December 23, 2011

By Order: Elizabeth E. Jones, Administrative Officer

A BILL ENTITLED

1 AN ORDINANCE concerning: Taxes on Services and Commodities - Hotel Occupancy Tax
2
3 FOR the purpose of changing the manner in which the tax levied on the consideration paid
4 for the use or occupancy of a room in a hotel in the County is collected and administered;
5 changing the name of the tax to conform to the nature of the tax under State law; defining
6 certain terms; levying and setting the rate of the tax; clarifying that the full amount of the
7 consideration paid for the occupancy of a room, including the consideration paid to a
8 room remarketer through an internet transaction, is subject to the tax; providing for
9 calculation, collection, and remittance of the tax and submission of certain reports by
10 hotel owners or operators and by room remarketers; providing for a certain exemption
11 from the tax; requiring registration by hotel owners or operators and room remarketers;
12 providing penalties for certain actions; providing for refunds; requiring notice by
13 purchasers or assignees of hotels; designating a collecting authority; providing for the
14 effective date and application of this Ordinance; and generally relating to the Hotel
15 Occupancy Tax.
16
17 BY repealing: § 4-6-105
18 Anne Arundel County Code (2005, as amended)
19
20 BY adding: § 4-6-105
21 Anne Arundel County Code (2005, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.

1 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
2 That § 4-6-105 of the Anne Arundel County Code (2005, as amended) be and hereby is
3 repealed.

4
5 SECTION 2. *And be it further enacted,* That Section(s) of the Anne Arundel County
6 Code (2005, as amended) read as follows:

7
8 **ARTICLE 4 FINANCE, TAXATION, AND BUDGET**

9
10 **TITLE 6. TAXES ON SERVICES AND COMMODITIES**

11
12 **4-6-105. Hotel occupancy tax.**

13
14 (A) **Definitions.** IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16
17 (1) "ADDITIONAL RENT" MEANS THE RENT PAID BY AN OCCUPANT TO A ROOM
18 REMARKETER THAT IS IN EXCESS OF THE NET RENT.

19
20 (2) "COLLECTING AUTHORITY" MEANS THE COUNTY CONTROLLER EXCEPT AS
21 PROVIDED IN SUBSECTION (K).

22
23 (3) (I) "HOTEL" MEANS A FACILITY THAT OFFERS SLEEPING ACCOMMODATIONS TO
24 THE TRANSIENT PUBLIC.

25
26 (II) "HOTEL" INCLUDES A MOTEL, INN, BED AND BREAKFAST HOME OR INN,
27 ROOMING OR GUEST HOUSE, AND TOURIST HOME.

28
29 (III) "HOTEL" DOES NOT INCLUDE A BED AND BREAKFAST HOME, ROOMING OR
30 GUEST HOUSE, OR TOURIST HOME THAT HAS FEWER THAN THREE BEDROOMS FOR THE
31 LODGING OF OCCUPANTS.

32
33 (4) "HOTEL OWNER OR OPERATOR" MEANS A PERSON WHO POSSESSES OR HAS AN
34 OWNERSHIP INTEREST IN A HOTEL OR IS ENGAGED IN THE BUSINESS OF OPERATING A
35 HOTEL.

36
37 (5) "NET RENT" MEANS THE RENT RECEIVED BY A HOTEL OWNER OR OPERATOR
38 FROM A ROOM REMARKETER.

39
40 (6) "OCCUPANT" MEANS A PERSON WHO USES OR OCCUPIES A ROOM IN A HOTEL.

41
42 (7) (I) "RENT" MEANS THE CONSIDERATION PAID FOR THE USE OR OCCUPANCY OF A
43 ROOM IN A HOTEL IN THE COUNTY.

44
45 (II) "RENT" INCLUDES BOTH THE "NET RENT" AND THE "ADDITIONAL RENT" WHEN
46 THE USE OR OCCUPANCY OF A ROOM IS RESERVED, BOOKED, BROKERED, OR OTHERWISE
47 ARRANGED FOR BY A ROOM REMARKETER AND THE FULL AMOUNT OF THE RENT IS NOT
48 PAID BY THE OCCUPANT DIRECTLY TO THE HOTEL OWNER OR OPERATOR.

49
50 (III) "RENT" INCLUDES CHARGES FOR SERVICES AND BOOKING FEES THAT ARE A
51 CONDITION OF USE OR OCCUPANCY AND ANY AMOUNT FOR WHICH CREDIT IS ALLOWED BY
52 THE HOTEL OWNER OR OPERATOR OR ROOM REMARKETER TO THE OCCUPANT.

1 (IV) "RENT" DOES NOT INCLUDE CHARGES FOR OPTIONAL SERVICES PROVIDED BY
2 THE HOTEL TO THE OCCUPANT THAT ARE IN ADDITION TO THE CHARGE FOR USE OR
3 OCCUPANCY AND THAT ARE SET FORTH SEPARATELY ON THE BILL PRESENTED TO THE
4 OCCUPANT.

5
6 (8) "ROOM REMARKETER" MEANS A PERSON, OTHER THAN THE OWNER OR OPERATOR
7 OF A HOTEL, WHO HAS THE RIGHT, ACCESS, ABILITY OR AUTHORITY, THROUGH AN
8 INTERNET TRANSACTION OR ANY OTHER MEANS, TO OFFER, RESERVE, BOOK, ARRANGE FOR,
9 REMARKET, DISTRIBUTE, BROKER, OR RESELL ROOMS FOR WHICH USE OR OCCUPANCY IS
10 SUBJECT TO THE TAX LEVIED UNDER THIS SECTION.

11
12 (B) **Levy and amount of tax.** THERE IS A HOTEL OCCUPANCY TAX LEVIED ON THE RENT
13 PAID FOR THE USE OR OCCUPANCY OF A ROOM IN A HOTEL IN THE COUNTY. THE RATE OF
14 THE TAX IS 7% OF THE RENT.

15
16 (C) **Calculation and collection; no room remarketer.** IF THE FULL AMOUNT OF THE
17 RENT IS PAID BY THE OCCUPANT DIRECTLY TO THE HOTEL OWNER OR OPERATOR, THE
18 HOTEL OWNER OR OPERATOR SHALL COLLECT THE TAX FROM THE OCCUPANT AND REMIT
19 THE TAX TO THE COLLECTING AUTHORITY AS PROVIDED IN SUBSECTION (G).

20
21 (D) **Calculation and collection; room remarketer.** IF THE USE OR OCCUPANCY OF A
22 ROOM IS RESERVED, BOOKED, OR OTHERWISE ARRANGED FOR BY A ROOM REMARKETER
23 AND THE FULL AMOUNT OF THE RENT IS NOT PAID BY THE OCCUPANT DIRECTLY TO THE
24 HOTEL OWNER OR OPERATOR, THE ROOM REMARKETER SHALL:

25
26 (1) COLLECT THE TAX FROM THE OCCUPANT BASED ON THE NET RENT AND REMIT
27 THE TAX TO THE HOTEL OWNER OR OPERATOR WHO SHALL REMIT IT TO THE COLLECTING
28 AUTHORITY AS PROVIDED IN SUBSECTION (G); AND

29
30 (2) COLLECT THE TAX FROM THE OCCUPANT BASED ON THE ADDITIONAL RENT AND
31 REMIT THE TAX TO THE COLLECTING AUTHORITY AS PROVIDED IN SUBSECTION (G).

32
33 (E) **Exemption for use or occupancy of 90 or more days.** THE TAX DOES NOT APPLY TO
34 THE RENT PAID FOR THE USE OR OCCUPANCY OF A ROOM IN A HOTEL THAT CONTINUES FOR
35 90 OR MORE CONSECUTIVE DAYS, PROVIDED THAT THIS EXEMPTION DOES NOT APPLY TO A
36 ROOM REMARKETER THAT OFFERS, RESERVES, BOOKS, ARRANGES FOR, REMARKETS,
37 DISTRIBUTES, BROKERS, OR RESELLS THE ROOM FOR USE OR OCCUPANCY BY OTHERS.

38
39 (F) **Registration.** A HOTEL OWNER OR OPERATOR OR ROOM REMARKETER THAT OFFERS,
40 RESERVES, BOOKS, ARRANGES FOR, REMARKETS, DISTRIBUTES, BROKERS, OR RESELLS
41 ROOMS FOR WHICH USE OR OCCUPANCY IS SUBJECT TO THE TAX LEVIED UNDER THIS
42 SECTION SHALL REGISTER WITH THE COLLECTING AUTHORITY ON THE FORM PRESCRIBED
43 BY THE COLLECTING AUTHORITY.

44
45 (G) **Remittance and reports.** THE TAX COLLECTED BY A HOTEL OWNER OR OPERATOR
46 OR ROOM REMARKETER SHALL BE REMITTED TO THE COLLECTING AUTHORITY NO LATER
47 THAN THE 25TH DAY OF EACH MONTH. THE HOTEL OWNER OR OPERATOR OR ROOM
48 REMARKETER SHALL AT THE SAME TIME FILE WITH THE COLLECTING AUTHORITY A
49 RETURN ON FORMS PRESCRIBED BY THE COLLECTING AUTHORITY THAT SETS FORTH THE
50 AMOUNT OF TAXES COLLECTED DURING THE PRECEDING PERIOD AND SUCH OTHER
51 INFORMATION AS THE COLLECTING AUTHORITY MAY REQUIRE.

52
53 (H) **Failure to remit or collect tax; failure to register.**
54

1 (1) A HOTEL OWNER OR OPERATOR OR ROOM REMARKETER THAT FAILS TO COLLECT,
2 REMIT, OR FILE A RETURN FOR THE TAX LEVIED BY THIS SECTION WITHIN THE TIME
3 PRESCRIBED SHALL BE ASSESSED THE AMOUNT OF TAX DUE, INTEREST AT THE RATE OF 0.5%
4 FOR EACH MONTH OR FRACTION OF A MONTH, AND A PENALTY OF 10% OF THE TAX DUE.
5 THE INTEREST AND PENALTY SHALL BE COLLECTED AS PART OF THE TAX.
6

7 (2) A HOTEL OWNER OR OPERATOR OR ROOM REMARKETER THAT FAILS TO REGISTER
8 AS REQUIRED BY SUBSECTION (F) SHALL BE SUBJECT TO A CIVIL PENALTY OF \$1,000 IN
9 ADDITION TO ANY OTHER AMOUNT OWED UNDER THIS SUBSECTION.
10

11 (I) **Refunds.** IF A TAXPAYER HAS ERRONEOUSLY, ILLEGALLY, OR UNCONSTITUTIONALLY
12 PAID THE TAX LEVIED BY THIS SECTION, THE COLLECTING AUTHORITY SHALL REFUND THE
13 TAX IF THE REFUND IS APPLIED FOR IN WRITING WITHIN THREE YEARS AFTER PAYMENT OF
14 THE TAX, AND IF THERE IS GOOD AND SUFFICIENT GROUNDS FOR THE REFUND. THE
15 APPLICATION SHALL BE IN THE FORM APPROVED BY THE COLLECTING AUTHORITY, SIGNED
16 BY BOTH THE TAXPAYER AND THE PROPER OFFICER OF THE HOTEL OWNER OR OPERATOR
17 OR ROOM REMARKETER, AND SUBMITTED TO THE COLLECTING AUTHORITY.
18

19 (J) **Purchaser or assignee of hotel.** NOT LESS THAN 10 DAYS BEFORE TAKING
20 POSSESSION OR CONTROL OF A HOTEL THAT IS SUBJECT TO THE TAX LEVIED BY THIS
21 SECTION, THE PURCHASER, TRANSFEREE, OR ASSIGNEE SHALL NOTIFY THE COLLECTING
22 AUTHORITY BY CERTIFIED MAIL OF THE SALE, TRANSFER, CONVEYANCE, OR ASSIGNMENT.
23 THE NOTICE SHALL SET FORTH THE NAME AND MAILING ADDRESS OF THE PURCHASER,
24 TRANSFEREE, OR ASSIGNEE, AND THE ANTICIPATED DATE OF TAKING POSSESSION OR
25 CONTROL. IF NOTICE TO THE COLLECTING AUTHORITY IS NOT PROVIDED OR IF THE
26 COLLECTING AUTHORITY INFORMS THE PURCHASER, TRANSFEREE, OR ASSIGNEE THAT A
27 POSSIBLE CLAIM FOR TAXES EXISTS, THE SUMS OF MONEY, PROPERTY, OR CHOSES IN
28 ACTION, OR OTHER CONSIDERATION IN WHICH THE PURCHASER, TRANSFEREE, OR ASSIGNEE
29 HAS AN INTEREST ARE SUBJECT TO A FIRST PRIORITY, RIGHT, AND LIEN TO THE COUNTY, OR
30 THE MAYOR AND ALDERMEN OF THE CITY OF ANNAPOLIS, AS APPROPRIATE, FOR THE TAX.
31 THE PURCHASER, TRANSFEREE, OR ASSIGNEE IS LIABLE TO THE EXTENT OF THE AMOUNT OF
32 THE CLAIM FOR UNPAID TAXES DUE UNDER THIS SECTION.
33

34 (K) **Collecting authority.** EXCEPT AS OTHERWISE PROVIDED BY AN AGREEMENT
35 EXECUTED IN ACCORDANCE WITH THIS SUBSECTION, THE COLLECTING AUTHORITY FOR
36 THE TAX LEVIED BY THIS SECTION IS THE COUNTY CONTROLLER. FOR THE TAX LEVIED ON
37 THE OCCUPANCY OF HOTELS LOCATED IN THE CITY OF ANNAPOLIS, THE COUNTY MAY
38 ENTER INTO AN AGREEMENT WITH THE MAYOR AND ALDERMEN OF THE CITY OF
39 ANNAPOLIS DELEGATING TO THE CITY OF ANNAPOLIS THE AUTHORITY TO ACT AS
40 COLLECTING AUTHORITY.
41

42 SECTION 3. *And be it further enacted,* That this Ordinance shall take effect on January
43 1, 2012 and shall apply to any payment of rent by an occupant to a hotel owner or operator or
44 to a room remarketer that takes place on or after that date, regardless of the dates of use or
45 occupancy.

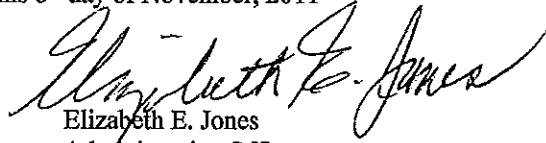
READ AND PASSED this 7th day of November, 2011

By Order:



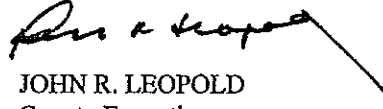
Elizabeth E. Jones
Administrative Officer

PRESENTED to the County Executive for his approval this 8th day of November, 2011



Elizabeth E. Jones
Administrative Officer

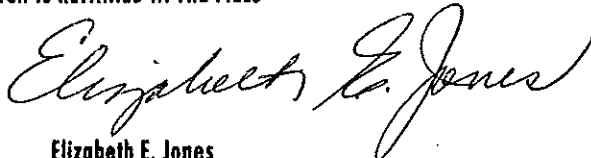
APPROVED AND ENACTED this 15th day of November, 2011



JOHN R. LEOPOLD
County Executive

EFFECTIVE DATE: December 30, 2011

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
69-11, THE ORIGINAL OF WHICH IS RETAINED IN THE FILES
OF THE COUNTY COUNCIL.



Elizabeth E. Jones
Administrative Officer